IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 1027 of 2001

Smt. Nand Kala W/o Sri Hari Ram
R/o Jamanpur,
Post Office Salakui
Police Station Sahspur
District Dehradun .....Applicant

Versus

1. State of Uttaranchal
2. Jawahar Singh S/o Nathu
   R/o Salakui
   Post Salakaui
   Police Station Sahaspur
   District Dehradun
3. Ram Singh S/o Ratan Singh
   R/o Jamanpur
   Post Salakai
   Police Station Sahaspur
   District Dehradun
4. Nathi Ram S/o Tulsi
   R/o Badhakpur
   Post Salakui
   Police Station Sahaspur
   District Dehradun .....Opposite Party

Sri Sandeep Tandon learned counsel for the applicant
Sri Ramji Srivastava learned counsel for the opposite party

Hon'ble B.. Kandpal, J.

This criminal miscellaneous application has been filed under Section 482 Cr.P.C. filed by the revisionist Smt. Nand Kala for quashing the order dated 11.04.2001 (Annexure 7) and 04.06.2001 (Annexure 8) passed by IVth A.C.J.M. Dehradun and IIIrd Additional Sessions Judge (F.T.C.) Dehradun respectively.

Briefly stated the facts of the case are that the complainant Smt. Nand Kala filed a complaint case under

Section 323, 504 and 506 I.P.C. against the opposite party no. 2 to 4. The case was registered, as Complaint Case No. 331 of 1997.

The evidence of the complainant was closed on 19.06.2000. Thereafter, the complainant moved an application for seeking permission to examine the witnesses but the same was rejected on 12.02.2001. The statement of the accused under Section 313 Cr.P.C. was recorded on 29.03.2001.

The complainant again on 11.04.2001 moved another application for seeking permission to examine the witnesses which was again rejected. Thereafter, the complainant preferred the revision before the court of Sessions and the revisional court after having heard the parties and perusal of the record also dismissed the same vide judgment and order dated 04.06.2001.

Feeling aggrieved by the aforesaid both impugned order the complainant filed this petition under Section 482 Cr.P.C. before this Court.

I have heard learned counsel for the parties and perused the record.

The record shows that several opportunities were given to the complainant to lead the evidence. The case had to be adjourned on all the dates on the request of the revisionist/complainant on the ground that the witnesses were not present. The Court, therefore, had no alternative except to close the evidence and the court rightly did it on 19.06.2000.

The record further reveals that the complainant after closure of the evidence again moved an application for seeking permission to lead the evidence but this application was also rejected and the statement of the accused was thereafter

recorded. Several dates were fixed for argument and ultimately again on 11.04.2001 the complainant made an unsuccessful attempt for seeking permission to lead the evidence but the court again rejected the same. The conduct of the complainant/applicant does not appear to be justified and record shows that she is only interested in lingering on the matter by taking one pretext or the other.

I find myself in total agreement with the findings recorded by the court below and to my mind the orders passed by the court below rejecting the application of the complainant/applicant for seeking permission to lead the evidence have been rightly rejected.

The court while exercising the inherent power under the provision of 482 Cr.P.C. is not supposed to act as a court of second revision. The impugned orders passed by the court below do not reveal that there has been any abuse of process.

I do not find any ground for interference in the impugned orders passed by the court below. The petition being devoid on merit is liable to be dismissed.

Accordingly, the petition under Section 482 Cr.P.C. filed by the complainant is dismissed.

(B.C. Kandpal, J.)

7th February, 2005
ASWAL